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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,390	10/25/2000	Michael D. Stokes	205718	4121
23460	7590	07/28/2004	EXAMINER	
LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6780			CASCHERA, ANTONIO A	
			ART UNIT	PAPER NUMBER
			2676	11

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/696,390

Applicant(s)

STOKES ET AL.

Examiner

Antonio A Caschera

Art Unit

2676

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1,3-12,14,16-24,26-29 and 31-33.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☐ Other: _____

Matthew C. Bella
MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 5. does NOT place the application in condition for allowance because:

Applicant's arguments have been reviewed but are not persuasive. In reference to claims 1, 14, 24 and 29, the Applicant argues that Lavendel, "...fails to teach that the color management component...is a component of the computer's operating system," (see pages 11-12 of Applicant's Remarks). Further, the Applicant argues that the TWAIN application of Lavendel, from which a "Tone" component is interpreted equivalent to the color management component of the above claims, is not integrated within an operating system. The office has included an additional reference to solely provide support for the statement that the TWAIN control is integrated within an operating system. The document entitled, "What's New in Device and Hardware Support" by Dave Morehouse explains additional features in a Windows operating system version wherein a WIA (Windows Image Acquisition) architecture uses the TWAIN Data Source Manager library to provide compatibility with devices that don't yet support WIA. (see under "Improved Image Capture Technologies: WIA" bullet number 6). Clearly, in order for the WIA architecture to use the TWAIN library, the TWAIN library must, in some way, be integrated and therefore, be apart of the operating system. Therefore, the office maintains it's previous rejection based on Lavendel. Note, again, the above reference is solely used to provide support for the interpretation made by the office and is not intended to change the prior art rejection of record.

Further, Applicant argues that Lavendel fails to teach, "a device driver for the image capturing device...invoking a color management function of the color management component to operate on the color image data of the captured image when the color management parameter is set to indicate that color management is required," (see page 12 of Applicant's Remarks). Even further, Applicant discloses that Lavendel discloses the image input operations manager responsible for determining whether color management is to be performed and not the device driver to perform this task (see page 12 of Applicant's Remarks). The office disagrees as Lavendel clearly discloses a dynamically-loadable device driver used to control image acquisition device based on user manipulation of dynamically-loadable device user interface and core TWAIN user interface (see paragraph 70 of Lavendel) both of which provide for color management functions (see Figures 11a-e of Lavendel). Therefore, the office maintains it's previous rejection of the above claims based on Lavendel.

Further note, Amendment C has been entered in order to correct for antecedent basis of claim 1.